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## 5B EXECUTIVE PROCEDURE RULES

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### 1.0 INTRODUCTION

The Executive Procedure Rules have been adopted by the Council to help achieve the following:

- To protect the interests of the Council, individual Members and Officers;
- To ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
- To ensure that decisions are made in accordance with the Council's agreed governance arrangements.

These Executive Procedure Rules do not cover all aspects of decision-making under Executive arrangements. Members and Officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:

- Scheme of Delegations (Part 4)
- Access to Information Procedure Rules (Part 5G)
- Overview and Scrutiny Procedure Rules (Part 5C)
- Members' Code of Conduct (Part 6A)
- Member / Officer Protocol (Part 6B)
- Article on Decision Making (Part 2H)

### 2.0 HOW THE EXECUTIVE OPERATES

#### 2.1 Who may make Executive decisions?

The arrangements for the discharge of Executive functions may be set out in the Executive arrangements, being these Executive Procedure Rules, adopted by the Council and forming part of the Constitution.

The exercise of any arrangements not set out here, may be decided by the Leader of the Council.

In either case, the Executive Procedure Rules or the Leader may provide for Executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a Committee of the Executive;
- (iii) an individual Executive Member;
- (iv) an Officer;
- (v) an Area Committee;
- (vi) Under Joint Arrangements; or
- (vii) By another Local Authority.

## 2.2 Delegation by the Leader of the Council

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by them for inclusion in [Part 3D \(Executive Functions\)](#) of this Constitution.

The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
- (ii) the extent of any authority delegated to Executive Members individually, including details of any limitation or consultation requirement on their authority;
- (iii) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to Area Committees, any other authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the coming year; and
- (v) the nature and extent of any delegation to Officers with details of any limitation or consultation requirements on that delegation, and the title of the Officer to whom the delegation is made.

## 2.3 Sub-delegation of Executive functions

All Executive power vests in the Leader of the Council. The Leader may discharge any Executive function, or may arrange for any Executive function to be delegated to the Executive, an individual Executive Member, a Committee of the Executive, an Area Committee, or an Officer.

If the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive, to an Officer, or to another body in accordance with joint working arrangements, but not to an Individual Executive Member.

Unless the Executive directs otherwise, where a Committee of the Executive or an individual Executive Member is responsible for an Executive function, they may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## 2.4 Changes to delegation arrangements

This Constitution set out the delegation arrangements currently in force in the authority. The Leader may amend the delegation arrangements in respect of Executive functions at any time, but any other amendment may only be carried out by the Council.

To amend delegation arrangements in respect of Executive functions, the Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment, and whether it entails the addition or withdrawal of delegation from any person, body, Committee or the Executive as a whole.

The Monitoring Officer will present a report to the next Ordinary Meeting of the Council setting out the changes made by the Leader, and will produce a revised statement of delegation arrangements for inclusion in [Part 3D](#) of this Constitution.

Where the Leader seeks to withdraw delegation from a Committee or Sub-Committee, notice will be deemed to be served on that Committee when it has been served on the Committee's Chair.

## **2.5 Conflicts of Interest**

Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Member Code of Conduct in [Part 6A](#) of this Constitution.

## **3.0 EXECUTIVE WORK PROGRAMME**

Subject to the Access to Information Procedure Rules in Part 5G, where an Executive decision is either "key" (see Part 2H Article on Decision Making) or "exempt" (see Part 5G), the decision shall not be taken unless details have been included and published for at least 28 days on the Executive Work Programme (sometimes known as the Forward Plan).

This requirement applies regardless of which individual or body is the decision maker and is therefore applicable to decisions to be made by the Executive collectively, or individually, and to Officers.

## **4.0 EXECUTIVE DECISIONS MADE BY THE EXECUTIVE**

When an Executive function has been delegated by the Leader to the body of the Executive as a whole, it may only exercise such functions and make such decisions at an Executive Meeting. Such a meeting must be held in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) Regulations 2012.

### **4.1 Timing and Location**

The Executive shall meet at least 10 times per year at times and on dates to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader, in consultation with the Monitoring Officer.

#### **4.2 Public access to meetings of the Executive**

Meetings of the Executive will be open to the public, except when confidential or exempt information is being discussed. Further information on this is given in the Access to Information Procedure Rules in [Part 5G](#) of this Constitution.

#### **4.3 Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be three members of the Executive. No substitutions are permitted.

#### **4.4 Chair**

If the Leader is present they will preside and Chair the Executive meeting. In their absence, the Deputy Leader will act as Chair, and in the absence of both the Leader and Deputy Leader then a person appointed to do so by those present shall preside.

#### **4.5 Member attendance at an Executive meeting**

Any member of the Council may attend any Executive meeting, and subject to the provisions in the Access to Information Procedure Rules at Part 5G of the Constitution, may remain present where the press and public have been excluded by the Executive.

#### **4.6 Business of an Executive Meeting**

At each meeting of the Executive the following business will be conducted:

- consideration of the minutes of the last meeting;
- apologies for absence
- declarations of interest, if any;
- participation of the public;
- receipt of announcements;
- matters referred to the Executive (whether by the Overview and Scrutiny Committee, by the Council or by the Audit and Governance Committee) for consideration by the Executive;
- consideration of reports from the Overview and Scrutiny Committee; and
- matters set out in the agenda for the meeting.

#### **4.7 Agenda items at an Executive Meeting**

The Council, the Overview and Scrutiny Committee, any other Committee of the Council, and any Member or Statutory Officer of the Council, may place an item on the agenda of a meeting of the Executive.

If the volume of business for any one meeting appears excessive, the Leader and the Monitoring Officer jointly may agree to defer consideration of items to a later meeting, except that:

- (i) items placed on the agenda by the Council may not be deferred if the Council requires them to be considered at that meeting;

- (ii) reports of Statutory Officers may not be deferred if, in the opinion of the Officer concerned, it is necessary for the report to be considered at that meeting; and
- (iii) no deferral will be for more than two Ordinary meetings of the Executive (unless the person or body placing the item agrees).

#### **4.8 Consultation**

All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation.

Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

#### **4.9 Written Reports for the Executive**

A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the Chief Executive, Monitoring Officer and Chief Financial Officer.

The Officer's report shall include the following:

- The Executive portfolio within which the issues fall;
- The Ward(s) affected by the proposed decision;
- The name and title of the Officer writing the report;
- The name and title of the Accountable Officer;
- The date of the meeting at which the decision may be taken;
- The subject and title of the report;
- Whether the decision proposed in the report is a key decision or not;
- Whether the report contains exempt or confidential information;
- A description of the issue to be decided;
- Any consultation undertaken, the method and a summary of representations received;
- The Officer's recommendations and the reasons for them;
- Details of any alternative options considered;
- A list of background papers;
- Which of the Council's priorities the matter impacts;
- Legal implications;
- Financial implications;
- A risk assessment;
- Information on equalities impact; and
- Climate and ecological emergencies impact.

Subject to the provisions on confidential and exempt information and special urgency as set out in the Access to Information Rules in Part 5G, the Chief Executive shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:

- Make the report available to all Members of the Council via the democratic

- services electronic system; and
- Make the report publically available on the Council's website.

The report author will ensure that all background papers listed in the report are made publically available at least 5 working days prior to the date of the meeting at which the decision is to be taken.

#### **4.10 Decisions of the Executive**

Subject to the Access to Information Procedure Rules, after a decision has been taken by the Executive, draft minutes of the meeting will be published on the Council's website which shall include:

- The title of the item;
- The title of the decision making body;
- The date on which the decision was made;
- The date on which the decision may be implemented;
- Whether or not it was a key decision;
- Any declarations of discloseable pecuniary interests;
- The decision;
- The reasons for the decision.

The draft minutes will not be a verbatim record of the meeting.

The draft minutes will be published on the Council's website and made available to all Members via the democratic services electronic system by the end of the 5<sup>th</sup> working day following the day of the meeting.

### **5.0 EXECUTIVE DECISIONS MADE BY AN INDIVIDUAL EXECUTIVE MEMBER**

#### **5.1 Decision Making by an Individual Executive Member**

All decisions made by an Individual Executive Member are to be made following an Officer report and must be recorded on a Decision Notice, which must be made publically available by the end of the second working day following receipt of the Decision Notice.

All decisions made by an Individual Executive Member must be made in accordance with Part 2H of the Constitution; Article 8 which contains the principles of decision making.

#### **5.2 Consultation**

The requirements as to consultation set out in paragraph 4.8 above apply equally to Executive decisions to be made by an Individual Executive Member.

#### **5.3 Written Reports for Individual Executive Member Decisions**

A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the Chief Executive, Monitoring Officer and Chief Finance Officer.

The report must contain the items as set out at paragraph 4.9 above.

Subject to the provisions on confidential and exempt information and special urgency as set out in the Access to Information Rules in Part 5G, the Chief Executive shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:

- Make the report available to all Members of the Council via the democratic services electronic system; and
- Make the report publically available on the Council's website.

The report author will ensure that all background papers listed in the report are made publically available at least 5 working days prior to the date of the meeting at which the decision is to be taken.

### **5.4 Timescales**

Subject to the Access to Information Rules, the decision may not be taken by the Individual Executive Member until the expiry of the time specified in the Executive Work Programme for a key decision ie 28 days. Further, the decision cannot be taken by the Individual Executive Member before the expiry of 5 clear working days after publication of the report. These two time periods can run concurrently.

The decision should be made by the Individual Executive Member within 14 days of the earliest date upon which the decision may be made.

The Individual Executive Member shall provide a written record of their decision, including reasons, to the Monitoring Officer by email at [democratic.services@westoxon.gov.uk](mailto:democratic.services@westoxon.gov.uk) within one full working day of the decision being made. Subject to Access to Information Rules, the decision notice will be published on the Council's website, and made available electronically to all Members via the democratic services electronic system, by the end of the second day following receipt of the Decision Notice.

### **5.5 Interests**

Prior to taking the decision, the Individual Executive Member will be required to consider whether they have any disclosable pecuniary interest or other interest in the matter as described in the Member's Code of Conduct. If the interest prevents the Individual Executive Member from taking the decision, they should take no part in it and refer the matter to the Leader without comment, save as to record the nature of their interest.

### **5.6 Leader making a decision referred by an Individual Executive Member**

The Leader may either make a decision on a report referred to them by an Individual Executive Member in accordance with paragraph 5.5 above, or may refer the report to the next meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a meeting of the Executive on the Decision Notice.

### **5.7 Delegations**

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader

removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified and Part 3 of the Constitution updated.

#### **5.8 Record of Decisions made by Individual Executive Members**

A Decision Notice, setting out the decision, must be completed by the Individual Executive Member. The Decision Notice must include the items set out at paragraph 4.10 above.

#### **6.0 EXECUTIVE DECISIONS MADE BY AN OFFICER**

Decisions made by Officers, whether Executive or not, should be made in accordance with the Officer Decision Making Protocol at Part 6H of the Constitution.

Where Executive decisions are delegated to a Committee of the Executive, or to individual Executive Members, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.